

**COURT OF COMMON PLEAS
FOR THE STATE OF DELAWARE
KENT COUNTY COURTHOUSE
414 FEDERAL STREET
DOVER, DELAWARE 19901
PHONE: (302)735-3910**

**CHARLES W. WELCH, III
JUDGE**

December 6, 2019

Ms. Claire Montanaro
117 Cherry Street
Collingdale, PA 19023

Lisa Whitelock, Esq.
Deputy Attorney General
Department of Justice
102 W. Water St.
Dover, DE 19901

**RE: State v. Claire Montanaro
Case No. 1908004640**

**Order Denying Appeal from Justice of the Peace Court Following Criminal
Conviction**

Dear Ms. Montanaro and Ms. Whitelock:

The Court is in receipt of the notice of an appeal from the Justice of the Peace Court that has been filed by the defendant, Claire Montanaro, for the above-referenced matter. The defendant was convicted of driving in excess of 25 miles per hour in a residential district in violation of 21 Del. C § 4169(a)(2) in the Justice of the Peace Court on October 28, 2019, and sentenced to pay a fine of \$86. The defendant's notice of appeal was filed with the Court of Common Pleas on November 7, 2019. It is the Court's understanding that the Justice of the Peace Court, *sua sponte*, re-opened the case on November 12, 2019, in the interest of justice. Therefore, the appeal to this Court is moot. Furthermore, after a careful review, the defendant's appeal is dismissed for lack of jurisdiction.

Pursuant to 21 Del. C. § 708(b), a person convicted of a driving offense under Title 21 of the Delaware Code shall have the right to appeal the decision of a Justice of the Peace Court to the Court of Common Pleas *only* in those cases in which the sentence imposed was imprisonment, or a fine exceeding \$100.¹ Likewise, a person seeking such an appeal must give notice to the Justice of the Peace Court before whom such person was convicted within 15 days from the time of the conviction.²

In this case, the defendant was sentenced to pay a fine in the amount of \$86. This amount falls short of the \$100 threshold imposed by 21 Del. C. § 708(b). Likewise, the defendant failed to file an appeal with the Justice of the Peace Court before whom she was convicted within 15 days from the time of conviction. Therefore, the defendant's appeal must be dismissed.

IT IS SO ORDERED

Sincerely,



Charles W. Welch, III

CWW:mek

¹ 21 Del. C. § 708(b) (emphasis added).

² *Id.*, see also Ct. Com. Pls. Crim. R. 39(a).